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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,384	03/30/2004	Boris Ginzburg	P-6587-US	1746
27130	7590	07/13/2006	EXAMINER	
EITAN, PEARL, LATZER & COHEN ZEDEK LLP 10 ROCKEFELLER PLAZA, SUITE 1001 NEW YORK, NY 10020			TRINH, SONNY	
			ART UNIT	PAPER NUMBER
			2618	

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/812,384		GINZBURG, BORIS	
	<b>Examiner</b>		<b>Art Unit</b>	
	Sonny TRINH		2618	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-23 and 27-29 is/are allowed.
- 6) ☒ Claim(s) 1-5, 13-14, 16-17, 24-26 is/are rejected.
- 7) ☒ Claim(s) 6-12 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/30/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. **Claims 1, 4-5, 13-14, 24-25** are rejected under 35 U.S.C. 102(b) as being anticipated by Fischer (U.S. Patent Number 5,371,734).

Regarding **claim 1**, with reference to figure 1 and its description (columns 8-10), Fischer discloses a method for space diversity reception comprising: selecting from two or more antennae (figure 1, antenna 100, 102) an active antenna that delivers a data-bearing signal having a signal quality at least as good as any of said antennae based upon measurements of said signal quality during reception of a preamble field of data frames having a substantially longer preamble field than other data frames (figure 6, column 19 line 38 to column 20 line 19) .

Regarding **claims 4-5**, Fischer discloses that data frames having a substantially longer preamble field than that of other data frames are received at substantially regular intervals and initiating said measurements of said signal quality periodically in anticipation of reception of said data frames having a substantially longer preamble field than that of other data frames (column 5 line 9 to column 6 line 62, column 19 line 38 to column 20 line 19, column 27 line 54 to column 28 line 49).

Regarding **claim 13**, with reference to figure 1 and description, Fischer discloses a communication device (communicator 60) comprising: two or more monopole antennae (antenna 100, 102); and a receiver including at least: an analog multiplexer (inherent) to select a data-bearing signal from one of said antennae since the system can select the antenna with the better quality, see claims 25-28); a signal quality measurement circuit to measure received signal quality from each of said antennae; and an antenna selection controller to instruct said signal quality measurement circuit to measure said signal quality during reception of a preamble field of data frames having a substantially longer preamble field than other data frames, said controller also to identify from said two or more antennae an antenna that delivers a data-bearing signal having a signal quality at least as good as any of said antennae and to command said analog multiplexer to select said data-bearing signal from said antenna (column 19 line 54 to column 20 line 19).

Regarding **claims 14, 25**, Fischer further discloses that the receiver further includes: a medium access controller to extract data frames from a down-converted and demodulated version of said data-bearing signal and to provide to said antenna selection controller indications of occurrences of said data frames having a substantially longer preamble field than other data frames (column 5 line 9 to column 6 line 68, column 16 line 43 to column 17 line 2, column 19 line 54 to column 20 line 19).

Regarding **claim 24**, this claim merely reflects the system claim as opposed to the apparatus claim of claim 13 and is therefore rejected for the same reasons (please

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note that figure 1 discloses a communication system including transmitters and receivers).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 2-3, 16-17, 26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer.

Regarding **claims 2, 16 and 26**, Fischer discloses the invention including that the data-bearing signal is generated according to IEEE standard 802 (column 21 line 67 to column 22 line 34) but does not disclose that the data-bearing signal is generated according to IEEE standard **802.11g**. However, 802.11g is merely a standard and it would have been obvious and well within the level of a person of ordinary skill in the art to use the 802.11 g standard for the simple reason of speed and to conform to the standard.

Regarding **claims 3 and 17**, Fischer further discloses that data frames having a substantially longer preamble field than that of other data frames are beacon frames (figures 6-9, see descriptions for details).

***Allowable Subject Matter***

3. **Claims 6-12, 15** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding **claim 6**, the applied references fail to disclose or render obvious the claimed limitations, specifically wherein the method further comprising: determining a length of said substantially regular intervals from a data field included in said data-bearing signal or in a synchronizing signal; initiating said measurements of said signal quality at intervals substantially equal in length to said length of said substantially regular intervals; and synchronizing said measurements of said signal quality to a specifically-recognizable element repeated periodically at substantially regular synchronization intervals of said data-bearing signal or said synchronizing signal.

Regarding **claim 15**, the applied references fail to disclose or render obvious the claimed limitations, specifically wherein the medium access controller is to provide to said antenna selection controller an indication of the time elapsing between successive occurrences of said data frames having a substantially longer preamble field than other data frames.

4. **Claims 18-23, 27-29** are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding **claim 18**, the applied references fail to disclose or render obvious the claimed limitations of a communication device comprising: two or more monopole antennae; and a receiver including at least: an analog multiplexer to select a data-bearing signal from one of said antennae; a signal quality measurement circuit to measure received signal quality from each of said antennae on receipt of a signal quality measurement request signal, and deliver a signal quality measurement result signal; a medium access controller to extract data frames from a down-converted and demodulated version of said data-bearing signal and to provide indications of occurrences of said data frames having a substantially longer preamble field than other data frames and which are received at substantially regular intervals; and an antenna selection controller to monitor said indications of occurrences of data frames having a substantially longer preamble field than other data frames and which are received at substantially regular intervals, to send said signal quality measurement request signal periodically in anticipation of reception of said data frames having a substantially longer preamble field than other data frames, to identify from said signal quality measurement result signal an antenna that delivers a data-bearing signal having a signal quality at least as good as any of said antennae and to command said analog multiplexer to select said data-bearing signal from said antenna.

**Claim 27** is the system claim as opposed to the apparatus claim of claim 18 and is therefore allowed for the same reasons.


## CONCLUSION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sonny TRINH whose telephone number is 571-272-7927. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward URBAN can be reached on 571-272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

6/30/06

  
SONNY TRINH  
PRIMARY EXAMINER